S.B. Civil Misc. Appeal No.14/2007
(Samaram & ors. Vs. Ram Karan & ors.)

Date of Order :: 5th January 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Rajesh Shah, for the appellants.

By way of this appeal, the claimants seek enhancement over the amount of compensation awarded by the Tribunal on account of accidental death of Shantilal (about 27 years), son of the appellants Nos. 1 & 2 and brother the appellant No. 3.

In its impugned award dated 06.07.2006, the Motor Accidents Claims Tribunal, Sirohi for the purpose of quantification of compensation has noticed the submissions of the claimants about the deceased earning as a driver and by way of agriculture; and for want of any cogent evidence on record, has taken his monthly income at Rs.3,000/- and deducting one-third wherefrom and with application of multiplier of 5 in view of the age of the parents in the range of about 60-70 years, has assessed pecuniary loss at Rs.1,20,000/-. The Tribunal has also allowed Rs.10,000/- towards non-pecuniary loss and further Rs.10,000/- towards funeral expenses. The Tribunal has awarded compensation in the sum of Rs.1,40,000/- to the parents of the victim; and has

also allowed interest @ 7.5% per annum from the date of filing of claim application.

It has been strenuously contended by learned counsel for the claimants that the Tribunal has erred in assessing pecuniary loss by taking income of the deceased only at Rs.3,000/- per month though his income has been asserted by the claimants at Rs.5,000/- per month from driver's job and another Rs.20,000/- from agriculture; that the Tribunal has erred in not taking the income as asserted by the claimants despite there being no rebuttal on record; and that the Tribunal has erred in not awarding any compensation to the brother of the victim.

Having given thoughtful consideration to the submissions made by learned counsel for the appellant and having perused the impugned award, this Court is clearly of opinion that this appeal remains bereft of substance.

The submission that the Tribunal has taken the income of the deceased on the lower scale does not merit acceptance. The Tribunal has noticed the assertions of the claimants and has observed that no cogent evidence has been adduced in relation to the income of the deceased; and with reference to

his driving licence of the deceased for motorcycle and LMV, has estimated his income at Rs. 3,000/- per month. The amount of pecuniary loss assessed by the Tribunal in the sum of Rs.1,20,000/-, taking entire of two-third of the estimated income of the deceased for the purpose of loss of contribution for his parents definitely stands on higher side. The deceased being an unmarried person, looking to the future certainties and uncertainties, chances of his getting married in future and larger part of his income getting diverted to his own family cannot be ruled out. In the circumstances of the case, not more than one-half of the estimated income of the deceased could have been taken towards pecuniary loss for the parents. Thus, even if there has been a bit of inadequacy about estimate on income of the deceased, the same is effectively balanced because of taking of higher amount towards loss of contribution. Then, application of multiplier of 5, in view of the age of the parents of the victim at about 60-70 years, is also on the maximum. The Tribunal has allowed reasonable interest at the rate 7.5% per annum. Brother of the deceased, claimant No.3, who was about 20 years in age, having not been established to be his dependent, has rightly not been allowed any compensation by the Tribunal.

This court is clearly of opinion that in the ultimate analysis, the award made by the Tribunal cannot be said to be improper or too low or grossly inadequate so as to warrant interference in appeal.

The appeal fails and is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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